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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
10 AT TACOMA

11 SCOTT C. SMITH,

12 Plaintiff,

13 v.

14 WASHINGTON STATE DEPARTMENT  
15 OF CORRECTIONS.

16 Defendant.

CASE NO. C10-5228RBL/JRC

ORDER ON REMOVAL

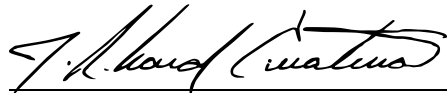
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18 This 42 U.S.C. §1983 Civil Rights matter has been referred to the undersigned Magistrate  
19 Judge pursuant to 28 U.S.C. §§ 636(b) (1) (A) and (B) and Local Magistrate Judge's Rules MJR  
20 1, MJR 3, and MJR 4. The matter was removed from state court as plaintiff alleges a violation of  
21 due process under the fourteenth amendment to the United States Constitution.

22 Rather than filing a motion to remand the action to state court, plaintiff filed objections  
23 (Dkt. # 11). Plaintiff notes that the only named defendant is the state, which is not a "person" for  
24 purposes of the civil rights act (Dkt. # 11). Defendant argues that the objection goes to the  
25 merits of the action and not whether removal is proper (Dkt. # 12). As there is a federal question  
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1 at issue, removal was proper. To the extent the objection can be considered as a motion to  
2 remand to state court the motion is DENIED.

3 The Clerk of Court is directed to send a copy of this Order to plaintiff.

4 DATED this 9th day of June, 2010.

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8 J. Richard Creatura  
9 United States Magistrate Judge  
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